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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. CV 06-6281 PA

Date December 27, 2007

Present: The Honorable PERCY ANDERSON, UNITED STATES DISTRICT JUDGE

Interpreter

C. Kevin Reddick

Not Reported

William A. Crowfoot

*Deputy Clerk**Court Reporter**Assistant U.S. Attorney*U.S.A. v. Defendant(s):Present Cust. BondAttorneys for Defendants:Present App. Ret.

Arif Durrani

No

No

Proceedings: IN CHAMBERS ORDER

The Court has before it the Petitioner Arif Durrani's Petition for a Writ of Habeas Corpus challenging the Court's release order issued on September 23, 2005. Respondent shall serve and file a Notice of Appearance not later January 14, 2008, notifying the Court of the name of the attorney who will have principal charge of the case, together with the address where the attorney may be served, and the attorney's telephone and fax number.

The Clerk of this Court shall promptly (a) serve a copy of the Petition and a copy of this Order on Respondent and the United States Attorney for the Central District of California, or his authorized agent; and (b) serve a copy of this Order on Petitioner.

Respondent shall file and serve its response to the Petition on or before March 11, 2008. Respondent's response to the Petition shall consist of a Motion to Dismiss ("Motion") or Answer. Arguments in support of the Motion or Answer that rely upon matters contained in the court's records filed as supporting exhibits must include citations to the relevant page or pages of the record; general citations to the exhibit or unacceptable.

If Respondent contends that the Petition can be decided without the Court reaching the merits of Petitioner's claim (e.g., because Petitioner is unable to satisfy the "in custody" requirement, Petitioner has failed to exhaust any remedies as to any ground for relief alleged in the Petition, or that the Petition is time-barred), Respondent shall file a motion to dismiss instead of an Answer. The Motion shall not address the merits of Petitioner's claim, but rather shall be confined to the basis for Respondent's contention that dismissal without reaching the merits of Petitioner's claim is warranted. At the time the Motion is filed, Respondent shall lodge with the Court all records supporting Respondent's contention.

The Motion shall not be noticed for a hearing pursuant to Local Rule 6-1. Instead, if Respondent files a Motion, Petitioner shall file and serve his opposition, if any, to the Motion within 30 days from the date the

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Motion was served. **Petitioner's Opposition must entitled or identified as "Petitioner's Opposition to Motion to Dismiss."** The Opposition is limited to 25 pages and must also cite to portions of the court's records that purport to refute the arguments in the Motion. Thereafter, Respondent may file and serve a Reply within 15 days after the Opposition is served. The Reply is limited to 5 pages. After Respondent's deadline for filing and serving the Reply expires, the Motion will be deemed submitted for decision without a hearing, and no further briefing will be accepted for filing, unless otherwise ordered by the Court.

If Respondent does not file a Motion, then Respondent shall file and serve an Answer to the Petition by March 11, 2008. If Respondent files a Motion instead of an Answer that is eventually denied in its entirety, then Respondent's Answer shall be filed and served within 20 days from the date of the order denying the Motion. At the time the Answer is filed, Respondent shall file with the Court all records bearing on the merits of Petitioner's claim, including transcripts and briefs. The Answer shall also specifically address the necessity for an evidentiary hearing to resolve any issue. Respondent's arguments as to each claim must be complete, yet concise, and must explain why any cases cited in the Answer are applicable and support Respondent's position.

Petitioner may file a single Reply responding to the matters raised in the Answer that must be filed and served within 30 days of the date the Answer was served. Petitioner shall be responsible for correctly calculating the filing and service deadline for the Reply based upon the proof of service attached to the Answer. The Reply shall not exceed 25 pages in length absent advance leave of Court for good cause shown. A Reply shall (a) state whether Petitioner admits or denies each allegation of fact contained in the Answer; (b) be limited to facts or arguments responsive to matters raised in the Answer; and (c) not raise any new grounds for relief that were not asserted in the Petition. Grounds for relief withheld until the Reply will not be considered unless the Court grants leave to amend the Petition. Petitioner is warned that the allegations and arguments in the Answer may be accepted as true, and Petitioner shall be deemed to have waived his right to make a Reply if a Reply is not filed and served by the Court-ordered deadline.

A request by a party for an extension of time within which to file any of the pleadings required hereunder will be granted only upon a showing of good cause, and must be made by way of an application that is made in advance of the due date of the pleading. The application must be supported by a declaration explaining why an extension of time is necessary and accompanied with a declaration explaining why an extension of time is necessary and accompanied with a proposed order entitled "[PROPOSED] ORDER GRANTING/DENYING EX PARTE APPLICATION FOR EXTENSION OF TIME" that is lodged with the Application. The proposed order shall include the following language:

The Application is GRANTED/DENIED. The Respondent/Petitioner shall have until _____, 200_ to file and serve the Motion to Dismiss or Opposition to the Motion to Dismiss or Answer or Reply. Thereafter, Respondent/Petitioner shall then have until _____, 200_ to file and serve the _____.

A Petitioner's lack of legal training or ignorance of the law is not good cause in itself for seeking an extension of time. Moreover, no Application will be considered and granted for a prison lockdown unless the

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Application is also supported by a declaration from the warden, prison law librarian, or prison official with knowledge of the law library's closure due to a lockdown, and the declaration must contain the following express representation to the Court:

I am the [declarant's title] at the [name of the prison]. From ____ until ____, the prison law library has been closed continuously to Petitioner and all other inmates due to a lockdown and, during this same period, copies of legal books or materials requested by Petitioner have not been available for delivery to Petitioner's cell from the prison law library as a result of the lockdown.

Unless otherwise ordered by the Court, this case shall be deemed submitted for decision on the day following the date that Petitioner's opposition to a Motion and/or Reply is due. Absolutely no further papers (e.g. supplemental oppositions or supplemental replies) will be considered and any papers filed in violation of this Order will not be considered and shall be stricken from the record.

No Motion, Answer, or Reply shall exceed 25 pages in length, excluding indices and exhibits, unless permitted by the Court.

Letters and all other ex parte communications written to the Court are prohibited, will not be considered, and will be either rejected for filing or, alternatively, stricken from the record if filed.

Every paper delivered to the Court for filing or lodging must include a certificate or proof of service attesting that a copy of such document was served on opposing counsel (or on the opposing party, if such party is not represented by counsel). Any paper delivered to the Court without a certificate or proof of service may be returned to the submitting party and without consideration by the Court.

Petitioner shall immediately notify the Court and opposing counsel of any change of Petitioner's address by filing and serving a "Notice of Change of Address." Petitioner's failure to keep the Court and the opposing counsel informed of Petitioner's current address will constitute a violation of this Order and may result in the dismissal of the action for failure to prosecute and the failure to comply with this Order.

Every paper filed with the Court, including exhibits to documents, shall be filed along with one clear, conformed, and legible copy for the Judge to review. Any papers that are not accompanied by a complete judge's copy may be rejected for filing and may result in the Judge not reviewing the papers.

IT IS SO ORDERED.

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